

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-6122**

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JAMES DALLAS TOLBERT,

Petitioner - Appellant,

versus

GEORGE DEEDS,

Respondent - Appellee.

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**No. 97-6774**

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JAMES DALLAS TOLBERT,

Petitioner - Appellant,

versus

GEORGE DEEDS,

Respondent - Appellee.

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Appeals from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CA-96-116-R)

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Submitted: August 5, 1997

Decided: September 16, 1997

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Before WILKINS, NIEMEYER, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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James Dallas Tolbert, Appellant Pro Se. Richard Bain Smith, Assistant Attorney General, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

James Dallas Tolbert seeks to appeal, in No. 97-6122, the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. Tolbert v. Deeds, No. CA-96-116-R (W.D. Va. Dec. 23, 1996).

Turning to Tolbert's appeal in No. 97-6774, we note that this is an appeal from a post-judgment motion for the provision of records and transcripts to aid in preparation of the appeal in No. 97-6122. Because Tolbert appeals directly from the magistrate judge's order, we find that this Court lacks jurisdiction to consider the appeal. We therefore dismiss this appeal as well.\* We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

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\* Even if we were to construe Tolbert's notice of appeal as a motion for production filed in this Court, we note that the record on appeal transmitted to this court appears to contain all the materials encompassed by Tolbert's request.